

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

RICKEY BENSON,

Plaintiff,

VS.

CHIEF JAILER KIRK FIELDS, ET AL.,

Defendants.

No. 2:24-cv-02041-SHM-tmp

**ORDER DISMISSING CASE;
CERTIFYING THAT AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH;
NOTIFYING BENSON OF THE APPELLATE FILING FEE;
NOTIFYING BENSON OF THE COURT'S STRIKE RECOMMENDATION UNDER
28 U.S.C. § 1915(g); DENYING PENDING MOTION (ECF. NO. 6) AND CLOSING CASE**

On January 16, 2024, Rickey Benson, who is a three-strike filer under § 1915(g) of the Prison Litigation Reform Act, 28 U.S.C. §§ 1915, *et seq.* (the “PLRA”), filed: (1) a *pro se* civil complaint under 42 U.S.C. § 1983 (ECF No. 1); and (2) a motion for leave to proceed *in forma pauperis* (ECF No. 2. (the “IFP Motion”)) On April 9, 2024, the Court (1) dismissed the complaint without prejudice pursuant to 28 U.S.C. § 1915(g). (ECF No. 5. (the “April 9 Order”)) The Court notified Benson that the case would be re-opened if Benson filed a motion to re-open within twenty-eight (28) days, accompanied by the four hundred and five dollar (\$405.00) civil filing fee. (*Id.* at PageID 12.) The Court warned Benson that if he failed to timely comply, the case would be dismissed with prejudice and judgment entered without further notice. (*Id.*)

On April 19, 2024, Benson filed a motion for ADR settlement (ECF No. 6. (the “Pending Motion”)). and a notice of appeal about the April 9 Order with the United States Court of Appeals

for the Sixth Circuit. (ECF No. 7 (the “NOA”).) On June 21, 2024, the Sixth Circuit entered an order that dismissed Benson’s appeal for want of prosecution. (ECF No. 9 at PageID 26.)

Benson’s deadline to file a motion to re-open Case No. 24-02041 and submit the civil filing fee was Tuesday, May 7, 2024. (*See* ECF No. 5 at PageID 12.) Benson has not filed a motion to re-open the case and has not sought an extension of time to do so.

For these reasons, the Court DISMISSES this case with prejudice in its entirety for the reasons discussed in the April 9 Order. (ECF No. 5.) Judgment will be entered in accordance with the April 9 Order. The Court DENIES the Pending Motion as MOOT.

The Court RECOMMENDS that this dismissal should be treated as a strike pursuant to 28 U.S.C. § 1915(g). *See Simons v. Washington*, 996 F.3d 350, 353 (6th Cir. 2021).

Pursuant to Federal Rule of Appellate Procedure 24(a) and 28 U.S.C. § 1915(a)(3), it is CERTIFIED that any appeal in this matter by Benson would not be taken in good faith. If Benson nevertheless chooses to file a notice of appeal, Benson must either pay the entire six hundred and five dollars (\$605.00) appellate filing fee or submit a new *in forma pauperis* affidavit and a current, certified copy of his inmate trust account statement for the last six months, in compliance with 28 U.S.C. §§ 1915(a)-(b).

The Clerk is directed to mark this case closed.

IT IS SO ORDERED, this 9th day of August, 2024.

/s/ Samuel H. Mays, Jr.
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE